

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GIGI FAIRCHILD-LITTLEFIELD,
Plaintiff,
vs.
R. AMEZCUA, et al.,
Defendants.

1:20-cv-00799-JLT-GSA-PC

**ORDER REQUIRING PLAINTIFF TO FILE
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO DEFENDANT
AMEZCUA'S MOTION TO DISMISS
WITHIN THIRTY DAYS**

(ECF No. 39.)

On September 22, 2022, defendant Amezcuia (“Defendant”) filed a motion to dismiss. (ECF No. 39.) Plaintiff Gigi Fairchild-Littlefield was required to file an opposition or a statement of non-opposition to the motion within twenty-one days, but has not done so. Local Rule 230(l).

Local Rule 230(l) provides that the failure to oppose a motion “may be deemed a waiver of any opposition to the granting of the motion . . .” The court may deem any failure to oppose Defendant’s motion to dismiss as a waiver and thereafter recommend that the motion be granted on that basis.

Further, failure to follow a district court’s local rules is a proper grounds for dismissal. U.S. v. Warren, 601 F.2d 471, 474 (9th Cir. 1979). Thus, a court may dismiss an action for the plaintiff’s failure to oppose a motion to dismiss where the applicable local rule determines that failure to oppose a motion will be deemed a waiver of opposition. See Ghazali v. Moran, 46 F.3d

1 52 (9th Cir. 1995), cert. denied 516 U.S. 838 (1995) (dismissal upheld even where plaintiff
2 contends he did not receive motion to dismiss, where plaintiff had adequate notice, pursuant to
3 Fed. R. Civ. P. 5(b), and time to file opposition); cf. Marshall v. Gates, 44 F.3d 722, 725 (9th
4 Cir. 1995); Henry v. Gill Industries, Inc., 983 F.2d 943, 949-50 (9th Cir. 1993) (motion for
5 summary judgment cannot be granted simply as a sanction for a local rules violation, without an
6 appropriate exercise of discretion). The court may also dismiss this case for Plaintiff's failure to
7 comply with the court's order. See Local Rule 110; Pagtalunan v. Galaza, 291 F.3d 639, 642
8 (9th Cir. 2002)

9 Accordingly, **IT IS HEREBY ORDERED** that:

- 10 1. Within thirty days of the date of service of this order, Plaintiff shall file an
11 opposition, or statement of non-opposition, to the motion to dismiss filed by
12 Defendant Amezcuia on September 22, 2022; and
13 2. Plaintiff's failure to comply with this order may result in a recommendation that
14 this case be dismissed.

15 IT IS SO ORDERED.
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17 Dated: October 22, 2022

18 /s/ Gary S. Austin
19 UNITED STATES MAGISTRATE JUDGE
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